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6 KRISTIN SWANSON-MACE, P.A.;
7 LAW OFFICES OF KRISTIN SWANSON-MACE, P.A.;
KRISTIN SWANSON-MACE, MARK BURNS,
JENNIFER BAILEY and SHAWNTINA JONES

8
9
10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13
14

15 SHARROLYN MADACH,
16 Plaintiff,

17 vs.

18 KRISTIN SWANSON-MACE, P.A., LAW
19 OFFICES OF KRISTIN SWANSON-
20 MACE, KRISTIN SWANSON-MACE,
MARK BURNS, JENNIFER BAILEY, and
MS. JONES,

21 Defendants.
22
23

Case No.: SACV08-00658
DOC (RNBx)

AMENDED STIPULATED
PROTECTIVE ORDER

24
25 **1. PURPOSES AND LIMITATIONS**

26 Disclosure and discovery activity in this action are likely to involve production
27
28 of confidential, proprietary, or private information for which special protection from

1 public disclosure and from use for any purpose other than prosecuting this litigation
2 would be warranted. Accordingly, the parties hereby stipulate to and petition the court
3 to enter the following Stipulated Protective Order. The parties acknowledge that this
4 Order does not confer blanket protections on all disclosures or responses to discovery
5 and that the protection it affords extends only to the limited information or items that
6 are entitled under the applicable legal principles to treatment as confidential. The
7 parties further acknowledge, as set forth in Section 10, below, that this Stipulated
8 Protective Order creates no entitlement to file confidential information under seal.
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12 **2. DEFINITIONS**

13 2.1 Party: any party to this action, including all of its officers, directors,
14 employees, consultants, retained experts, and outside counsel (and their support staff).
15

16 2.2 Disclosure or Discovery Material: all items or information, regardless
17 of the medium or manner generated, stored, or maintained (including, among other
18 things, testimony, transcripts, or tangible things) that are produced or generated in
19 disclosures or responses to discovery in this matter.
20

21 2.3 "Confidential" Information or Items: information (regardless of how
22 generated, stored or maintained) or tangible things that qualify for protection under
23 standards developed under
24 F.R.Civ.P. 26(c).
25

26 2.4 "Highly Confidential – Attorneys' Eyes Only" Information or Items:
27 extremely sensitive "Confidential Information or Items" whose disclosure to another
28

1 Party or nonparty would create a substantial risk of serious injury that could not be
2 avoided by less restrictive means.

3
4 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material
5 from a Producing Party.

6
7 2.6 Producing Party: a Party or non-party that produces Disclosure or
8 Discovery Material in this action.

9
10 2.7. Designating Party: a Party or non-party that designates information or
11 items that it produces in disclosures or in responses to discovery as "Confidential" or
12 "Highly Confidential — Attorneys' Eyes Only."

13
14 2.8 Protected Material: any Disclosure or Discovery Material that is
15 designated as "Confidential" or as "Highly Confidential – Attorneys' Eyes Only."

16
17 2.9. Outside Counsel: attorneys who are not employees of a Party but who are
18 retained to represent or advise a Party in this action.

19 2.10 House Counsel: attorneys who are employees of a Party.

20
21 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well
22 as their support staffs).

23
24 2.12 Expert: a person with specialized knowledge or experience in a matter
25 pertinent to the litigation who has been retained by a Party or its counsel to serve as
26 an expert witness or as a consultant in this action and who is not a past or a current
27 employee of a Party or of a competitor of a Party's and who, at the time of retention,
28 is not anticipated to become an employee of a Party or a competitor of a Party's. This

1 definition includes a professional jury or trial consultant retained in connection with
2 this litigation.

3
4 2.13 Professional Vendors: persons or entities that provide litigation support
5 services (e.g., photocopying; videotaping; translating; preparing exhibits or
6 demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and
7 their employees and subcontractors.
8

9 **3. SCOPE**

10 The protections conferred by this Stipulation and Order cover not only
11 Protected Material (as defined above), but also any information copied or extracted
12 therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus
13 testimony, conversations, or presentations by parties or counsel to or in court or in
14 other settings that might reveal Protected Material.
15
16

17 **4. DURATION**

18 Even after the termination of this litigation, the confidentiality obligations
19 imposed by this Order shall remain in effect until a Designating Party agrees
20 otherwise in writing or a court order otherwise directs.
21
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23 **5. DESIGNATING PROTECTED MATERIAL**

24 5.1 Exercise of Restraint and Care in Designating Material for Protection.

25 Each Party or non-party that designates information or items for protection under this
26 Order must take care to limit any such designation to specific material that qualifies
27 under the appropriate standards. A Designating Party must take care to designate for
28

1 protection only those parts of material, documents, items, or oral or written
2 communications that qualify – so that other portions of the material, documents, items,
3 or communications for which protection is not warranted are not swept unjustifiably
4 within the ambit of this Order.
5

6 Mass, indiscriminate, or routinized designations are prohibited. Designations
7 that are shown to be clearly unjustified, or that have been made for an improper
8 purpose (e.g., to unnecessarily encumber or retard the case development process, or
9 to impose unnecessary expenses and burdens on other parties), expose the Designating
10 Party to sanctions.
11

12 If it comes to a Party's or a non-party's attention that information or items that
13 it designated for protection do not qualify for protection at all, or do not qualify for
14 the level of protection initially asserted, that Party or non-party must promptly notify
15 all other parties that it is withdrawing the mistaken designation.
16

17 5.2 Manner and Timing of Designations. Except as otherwise provided in this
18 Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated
19 or ordered, material that qualifies for protection under this Order must be clearly so
20 designated before the material is disclosed or produced.
21

22 Designation in conformity with this Order requires:
23

24 (a) for information in documentary form (apart from transcripts of
25 depositions or other pretrial or trial proceedings), that the Producing Party affix the
26 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES"
27
28

1 ONLY” at the top of each page that contains protected material. If only a portion or
2 portions of the material on a page qualifies for protection, the Producing Party also
3 must clearly identify the protected portion(s) (e.g., by making appropriate markings
4 in the margins) and must specify, for each portion, the level of protection being
5 asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
6 ATTORNEYS’ EYES ONLY”).
7

8
9 A Party or non-party that makes original documents or materials available for
10 inspection need not designate them for protection until after the inspecting Party has
11 indicated which material it would like copied and produced. During the inspection and
12 before the designation, all of the material made available for inspection shall be
13 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the
14 inspecting Party has identified the documents it wants copied and produced, the
15 Producing Party must determine which documents, or portions thereof, qualify for
16 protection under this Order, then, before producing the specified documents, the
17 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY
18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) at the top of each page that
19 contains Protected Material. If only a portion or portions of the material on a page
20 qualifies for protection, the Producing Party also must clearly identify the protected
21 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for
22 each portion, the level of protection being asserted (either “CONFIDENTIAL” or
23 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).
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1 (b) for testimony given in deposition, that the Party or non-party
2 offering or sponsoring the testimony identify on the record, before the close of the
3 deposition, all protected testimony, and further specify any portions of the testimony
4 that qualify as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." When
5 it is impractical to identify separately each portion of testimony that is entitled to
6 protection, and when it appears that substantial portions of the testimony may qualify
7 for protection, the Party or non-party that sponsors, offers, or gives the testimony may
8 invoke on the record (before the deposition is concluded) a right to have up to 20 days
9 to identify the specific portions of the testimony as to which protection is sought and
10 to specify the level of protection being asserted ("CONFIDENTIAL" or "HIGHLY
11 CONFIDENTIAL – ATTORNEYS' EYES ONLY"). Only those portions of the
12 testimony that are appropriately designated for protection within the 20 days shall be
13 covered by the provisions of this Stipulated Protective Order.
14

15 Transcript pages containing Protected Material must be separately bound
16 by the court reporter, who must affix to the top of each such page the legend
17 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
18 ONLY," as instructed by the Party or nonparty offering or sponsoring the witness or
19 presenting the testimony.
20

21 (c) for information produced in some form other than documentary,
22 and for any other tangible items, that the Producing Party affix in a prominent place
23 on the exterior of the container or containers in which the information or item is stored
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1 the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
 2 EYES ONLY." If only portions of the information or item warrant protection, the
 3 Producing Party, to the extent practicable, shall identify the protected portions,
 4 specifying whether they qualify as "Confidential" or as "Highly Confidential –
 5 Attorneys' Eyes Only."
 6
 7

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
 9 failure to designate qualified information or items as "Confidential" or "Highly
 10 Confidential – Attorneys' Eyes Only" does not, standing alone, waive the Designating
 11 Party's right to secure protection under this Order for such material. If material is
 12 appropriately designated as "Confidential" or "Highly Confidential – Attorneys' Eyes
 13 Only" after the material was initially produced, the Receiving Party, on timely
 14 notification of the designation, must make reasonable efforts to assure that the
 15 material is treated in accordance with the provisions of this Order.
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19 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

20 6.1 Timing of Challenges. Unless a prompt challenge to a Designating
 21 Party's confidentiality designation is necessary to avoid foreseeable substantial
 22 unfairness, unnecessary economic burdens, or a later significant disruption or delay
 23 of the litigation, a Party does not waive its right to challenge a confidentiality
 24 designation by electing not to mount a challenge promptly after the original
 25 designation is disclosed.
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1 6.2 Meet and Confer. A Party that elects to initiate a challenge to a
2 Designating Party's confidentiality designation must do so in good faith and in strict
3 compliance with Local Rules of Court 36-1, 37-2 through 2.4. A Party must begin the
4 process by conferring directly (in voice to voice dialogue; other forms of
5 communication are not sufficient) with counsel for the Designating Party. In
6 conferring, the challenging Party must explain the basis for its belief that the
7 confidentiality designation was not proper and must give the Designating Party an
8 opportunity to review the designated material, to reconsider the circumstances, and,
9 if no change in designation is offered, to explain the basis for the chosen designation.
10 A challenging Party may proceed to the next stage of the challenge process only if it
11 has engaged in this meet and confer process first.

12
13 6.3 Judicial Intervention. A Party that elects to press a challenge to a
14 confidentiality designation after considering the justification offered by the
15 Designating Party may file and serve a motion that identifies the challenged material
16 and sets forth in detail the basis for the challenge. The parties shall proceed in strict
17 compliance with Local Rules 37-1 and 37-2, including the requirement that the parties
18 formulate a Joint Stipulation.

19
20 The burden of persuasion in any such challenge proceeding shall be on the
21 Designating Party. Until the court rules on the challenge, all parties shall continue to
22 afford the material in question the level of protection to which it is entitled under the
23 Producing Party's designation.

1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a non-party in connection with this case
4 only for prosecuting, defending, or attempting to settle this litigation. Such Protected
5 Material may be disclosed only to the categories of persons and under the conditions
6 described in this Order. When the litigation has been terminated, a Receiving Party
7 must comply with the provisions of section 11, below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a
9 location and in a secure manner that ensures that access is limited to the persons
10 authorized under this Order.

11 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
12 otherwise ordered by the court or permitted in writing by the Designating Party, a
13 Receiving Party may disclose any information or item designated CONFIDENTIAL
14 only to:

15 (a) the Receiving Party's Outside Counsel of record in this action, as well as
16 employees of said Counsel to whom it is reasonably necessary to disclose the
17 information for this litigation and who have signed the "Agreement to Be Bound by
18 Protective Order" that is attached hereto as Exhibit A;

19 (b) the officers, directors, and employees (including House Counsel) of the
20 Receiving Party to whom disclosure is reasonably necessary for this litigation and
21 who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);
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1 (c) experts (as defined in this Order) of the Receiving Party to whom disclosure
 2 is reasonably necessary for this litigation and who have signed the "Agreement to Be
 3 Bound by Protective Order" (Exhibit A);
 4

5 (d) the Court and its personnel;

6
 7 (e) court reporters, their staffs, and professional vendors to whom disclosure is
 8 reasonably necessary for this litigation and who have signed the "Agreement to Be
 9 Bound by Protective Order" (Exhibit A);
 10

11 (f) during their depositions, witnesses in the action to whom disclosure is
 12 reasonably necessary and who have signed the "Agreement to Be Bound by Protective
 13 Order" (Exhibit A). Pages of transcribed deposition testimony or exhibits to
 14 depositions that reveal Protected Material must be separately bound by the court
 15 reporter and may not be disclosed to anyone except as permitted under this Stipulated
 16 Protective Order.
 17
 18

19 (g) the author of the document or the original source of the information.

20 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
 21 Information or Items. Unless otherwise ordered by the court or permitted in writing
 22 by the Designating Party, a Receiving Party may disclose any information or item
 23 designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" only to:
 24
 25

26 (a) the Receiving Party's Outside Counsel of record in this action, as well as
 27 employees of said Counsel to whom it is reasonably necessary to disclose the
 28 information for this litigation and who have signed the "Agreement to Be Bound by

1 Protective Order” that is attached hereto as Exhibit A;

2 (b) Experts (as defined in this Order) (1) to whom disclosure is reasonably
3 necessary for this litigation, and (2) who have signed the “Agreement to Be Bound by
4 Protective Order” (Exhibit A)

5 (c) the Court and its personnel;

6 (d) court reporters, their staffs, and professional vendors to whom disclosure
7 is reasonably necessary for this litigation and who have signed the “Agreement to Be
8 Bound by Protective Order” (Exhibit A); and

9 (e) the author of the document or the original source of the information.

10 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**
11 **IN OTHER LITIGATION**

12 If a Receiving Party is served with a subpoena or an order issued in other
13 litigation that would compel disclosure of any information or items designated in this
14 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
15 EYES ONLY,” the Receiving Party must so notify the Designating Party, in writing
16 (by fax, if possible) immediately and in no event more than three court days after
17 receiving the subpoena or order. Such notification must include a copy of the
18 subpoena or court order.

19 The Receiving Party also must immediately inform in writing the Party who
20 caused the subpoena or order to issue in the other litigation that some or all the
21 material covered by the subpoena or order is the subject of this Protective Order. In
22

1 addition, the Receiving Party must deliver a copy of this Stipulated Protective Order
2 promptly to the Party in the other action that caused the subpoena or order to issue.
3

4 The purpose of imposing these duties is to alert the interested parties to the
5 existence of this Protective Order and to afford the Designating Party in this case an
6 opportunity to try to protect its confidentiality interests in the court from which the
7 subpoena or order issued. The Designating Party shall bear the burdens and the
8 expenses of seeking protection in that court of its confidential material – and nothing
9 in these provisions should be construed as authorizing or encouraging a Receiving
10 Party in this action to disobey a lawful directive from another court.
11

12
13 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**
14

15 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
16 Protected Material to any person or in any circumstance not authorized under this
17 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
18 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
19 to retrieve all copies of the Protected Material, (c) inform the person or persons to
20 whom unauthorized disclosures were made of all the terms of this Order, and (d)
21 request such person or persons to execute the “Acknowledgment and Agreement to
22 Be Bound” that is attached hereto as Exhibit A.
23

24
25 **10. FILING PROTECTED MATERIAL**
26

27 In accordance with Local Rule 79-5.1, if any papers to be filed with the court contain
28 information and/or documents that have been designated as “Confidential” or “Highly

1 Confidential - Attorneys' Eyes Only," the proposed filing shall be accompanied by an
2 application to file the papers or the portion thereof containing the designated
3 information or documents (if such portion is segregable) under seal. The application
4 shall be directed to the judge to whom the papers are directed. Parties should publicly
5 file redacted versions of any motion and supporting papers containing "Confidential"
6 or "Highly Confidential - Attorneys' Eyes Only" information. The parties are
7 forewarned that neither the fact that counsel have stipulated to an under seal filing, nor
8 the fact that a proposed filing contains information or documents that one of the
9 parties elected to designate as "Confidential" or "Highly Confidential - Attorneys'
10 Eyes Only," in accordance with the terms of the protective order is sufficient in itself
11 for the Court to find that good cause exists to file the papers or the portion containing
12 the designated information or documents under seal. At the very last, parties will need
13 to convince the Court in their application that protection clearly is warranted for the
14 designated information or documents. For declarations with exhibits, this means
15 making the requisite showing on an exhibit-by-exhibit basis.

11. **FINAL DISPOSITION**

12 Unless otherwise ordered or agreed in writing by the Producing Party, within
13 sixty days after the final termination of this action, each Receiving Party must return
14 all Protected Material to the Producing Party. As used in this subdivision, "all
15 Protected Material" includes all copies, abstracts, compilations, summaries or any
16 other form of reproducing or capturing any of the Protected Material. With permission

1 in writing from the Designating Party, the Receiving Party may destroy some or all
2 of the Protected Material instead of returning it. Whether the Protected Material is
3 returned or destroyed, the Receiving Party must submit a written certification to the
4 Producing Party (and, if not the same person or entity, to the Designating Party) by
5 the sixty day deadline that identifies (by category, where appropriate) all the Protected
6 Material that was returned or destroyed and that affirms that the Receiving Party has
7 not retained any copies, abstracts, compilations, summaries or other forms of
8 reproducing or capturing any of the Protected Material. Notwithstanding this
9 provision, Counsel are entitled to retain an archival copy of all pleadings, motion
10 papers, transcripts, legal memoranda, correspondence or attorney work product, even
11 if such materials contain Protected Material. Any such archival copies that contain or
12 constitute Protected Material remain subject to this Protective Order as set forth in
13 Section 4 (DURATION), above.
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19 **12. MISCELLANEOUS**

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
21 person to seek its modification by the Court in the future.
22

23 12.2 Right to Assert Other Objections. By stipulating to the entry of this
24 Protective Order no Party waives any right it otherwise would have to object to
25 disclosing or producing any information or item on any ground not addressed in this
26

27 ///

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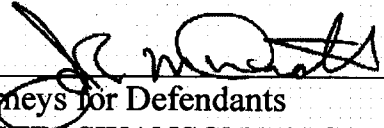
1 Stipulated Protective Order. Similarly, no Party waives any right to object on any
2 ground to use in evidence of any of the material covered by this Protective Order.
3

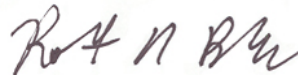
4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5
6 DATED: 1/6/09

7 
8 Attorneys for Plaintiff SHARROLYN MADACH

9 DATED: December 24, 2008

10 
11 Attorneys for Defendants
12 KRISTIN SWANSON-MACE, P.A.;
13 LAW OFFICES OF KRISTIN SWANSON-MACE, P.A.;
14 KRISTIN SWANSON-MACE, MARK BURNS,
JENNIFER BAILEY and SHAWNTINA JONES

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury that
 I have read in its entirety and understand the Stipulated Protective Order that was
 issued by the United States District Court for the Central District of California on
 [date] in the case of _____ **[insert formal name of the case and the number
 and initials assigned to it by the court]**. I agree to comply with and to be bound by
 all the terms of this Stipulated Protective Order and I understand and acknowledge
 that failure to so comply could expose me to sanctions and punishment in the nature
 of contempt. I solemnly promise that I will not disclose in any manner any
 information or item that is subject to this Stipulated Protective Order to any person or
 entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print or
 type full name] of _____ [print or type full
 address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this
 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
 [printed name]

Signature: _____
 [signature]